IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4076 OF 2007.

Shri Sidhivinayak Gramin Bigar Sheti
Sahakari Patsanstha Maryadit, Mohal. ... Petitioner.
Versus.
The State of Maharashtra & otehrs. ... Respondents.

Shri G.S.Godbole with Shri M.A.Utagikar for the Petitioner.

Ms.Mhaispurkar, A.G.P. for Respondents Nos.1 to 3.

Shri S.S.Shah for the Respondents Nos.4 to 12.

CORAM : ABHAY S.OKA, J.

DATED : 14th June, 2007.

P.C.:

1. Rule. The learned A.G.P.waives service for Respondents Nos.1 to 3. Shri Shah waives service for Respondents Nos.4 to 12. Considering the controversy involved in the writ petition, the same is immediately taken up for final hearing.

2. The challenge in this writ petition is to the order dated 10th May 2007 (Exh.F). The said order has been passed by the 2nd Respondent on a Revision Application filed by the 4th to 12th Respondents. Various legal and factual contentions have been raised by the learned Advocates appearing for the contesting parties. It is pointed out by the learned Advocate for the Petitioner that the order impugned was passed without notice to the persons who are affected by the said order. It is submitted that the order has been

passed in breach of the principles of natural justice.

3. Before adverting to the contentions raised by the contesting parties on merits of the order, I find that the impugned order dated 10th May 2007 has been passed by the 2nd Respondent without giving an opportunity of being heard to the persons who may be affected by the said order. There is no dispute between the learned Advocates appearing for the contesting parties that the persons who are claiming to be elected as members of the Managing Committee on 2nd February 2005 will be necessary and proper parties to the Revision Application. Shri Shah appearing for the Respondents Nos.4 to 12 states that if this Court is inclined to set aside the impugned order only on the ground that the affected parties were not heard, the said Respondents will implead those persons who are claiming to be elected as members of the Managing Committee of the petitioner on 2nd February 2005 as party Respondents to the Revision Application filed by the said Respondents Nos.4 to 12.

4. Considering the fact that the Revision application has been disposed of in breach of the principles of natural justice, it is not necessary to go into the contention whether the Revision Application is maintainable. The order dated 10th May 2007 will have

to be set aside with a direction to the 4th to 12th Respondents to implead the affected parties as party Respondents to their Revision Application. The Revision Application will have to be heard afresh after notice to all the concerned parties.

5. Hence the following order is passed:

(i) The impugned order dated 10th May 2007 is quashed and set aside and the Revision Application No.180 of 2007 is restored to the file. All consequential orders passed on the basis of the impugned order also stand set aside.

(ii) The 2nd Respondent will permit the Revision Applicants (Respondents Nos.4 to 12 herein) to carry out amendment to the Revision Application by impleading all the necessary and proper parties. After the amendment is carried out, the 2nd Respondent will issue notice to the parties of the date fixed of hearing of the Revision Application.

(iii) The Revision Application shall be decided on its own merits. All contentions of the

parties including the contention regarding the maintainability of the Revision Application and the jurisdiction are expressly kept open.

(iv) The Revision Application shall be decided as expeditiously as possible and preferably within a period of 8 weeks from the date of production of an authenticated copy of this order.

(v) Rule is partly made absolute in the above terms with no order as to costs.

Judge.